



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 04828-99
22 November 1999

ATTN: [REDACTED]

Dear Petitioner [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of all reference to a nonjudicial punishment (NJP) of 8 April 1998 which has been set aside, to include an evaluation report and counseling record for 16 September 1997 to 30 April 1998.

The enclosed memorandum dated 19 November 1999 shows the Navy Personnel Command (NPC) has amended the contested evaluation by removing from block 43 the following references to your NJP: "and subsequent NJP" (third line) and "Awarded CO's [commanding officer's] NJP on 8 Apr 98." (end of fifth line).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by NPC dated 22 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, and notwithstanding the recommendation of the advisory opinion for complete removal of the contested evaluation, the Board found that the evidence submitted was insufficient to establish probable material error or injustice warranting this relief. In this connection, they particularly noted that the set aside authority's letter dated 17 July 1999 shows the set aside was not based on the determination you had not committed misconduct, but on the premise that you should not have been punished twice for the same actions. In view of the above, your application for relief beyond that effected by NPC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

4828-99

**DEPARTMENT OF THE NAVY****NAVY PERSONNEL COMMAND****5720 INTEGRITY DRIVE****MILLINGTON TN 38055-0000**

5420

PERS 313D1/2146

19 Nov 99

MEMORANDUM FOR BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: CORRECTION TO THE PERMANENT RECORD [REDACTED]
[REDACTED] SSN, 520-90-8134

Ref: (a) PHONECON [REDACTED] BCNR and [REDACTED] AD1
10 Nov 99
(b) Memorandum to File for Docket No. [REDACTED]

Encl: (1) Removed image
(2) Corrected record

1. As requested by reference (a) and (b), member's record has been corrected.

2. Enclosures (1) and (2) are forwarded.

[REDACTED]
Asst Head, Records Control &
Quality Assurance Section

EVALUATION REPORT & COUNSELING RECORD (E1-E6) (cont'd)

RCS BUPERS 1610-1

1. Name (Last, First MI Suffix)		2. Rate		3. Desig		4. SSN	
PERFORMANCE TRAITS		1.0* Below Standards		2.0 Progressing		3.0 Meets Standards	
38. TEAMWORK: Contributions to team building and team results.		- Creates conflict, unwilling to work with others, puts self above team. - Fails to understand team goals or teamwork techniques. - Does not take direction well.		- Reinforces others' efforts, meets commitments to team. - Understands goals, employs good teamwork techniques. - Accepts and offers team direction.		- Team builder, inspires cooperation and progress. - Focuses goals and techniques for teams. - The best at accepting and offering team direction.	
39. LEADERSHIP: (Optional for E1-E3) Organizing, motivating and developing others to accomplish goals.		- Fails to motivate, train or develop subordinates. - Fails to organize, creates problems for subordinates. - Does not set or achieve goals relevant to command mission. - Lacks ability to cope with or tolerate stress. - Inadequate communicator. - Tolerates hazards or unsafe practices. - Does not attend to welfare of subordinates.		- Effectively motivates, trains and develops subordinates. - Organizes successfully, solves problems as they occur. - Sets/achieves useful, realistic goals which support command mission. - Performs and leads effectively in stressful situations. - Clear, timely communicator. - Ensures safety of personnel and equipment. - Routinely considers subordinates' personal and professional welfare.		- Inspiring motivator and trainer, consistently builds winners. - Superb organizer, great foresight, gets ahead of problems. - Leadership achievements significantly further command mission. - Perseveres through the toughest challenges and inspires others. - Exceptional communicator. - Makes subordinates safety-conscious, has top safety record. - Constantly improves the personal and professional lives of others.	

40. Individual Trait Avg.
Total of trait scores divided by number of graded traits.

3.43

41. I recommend this individual for (maximum of two): Assignment in Rating, Sea Special Programs, Shore Special Programs, Commissioning Programs, Special Warfare programs, Rating Instructor Duty, Other. (Be specific)

ASSIGNMENT
IN RATE

42. Signature of Rater (Typed Name & Rate): I have evaluated this member against the above performance standards and have provided written explanation of marks 1.0 and 5.0.

43. COMMENTS ON PERFORMANCE: All 5.0 and 1.0 marks must be specifically substantiated in comments. No numerical ranking permitted. Comments must be verifiable. Bold, underlined, italic, or other highlighted type is prohibited. Font must be 10 or 12 pitch (10 to 12 point) only. Use upper and lower case.

This evaluation is submitted for the purpose of withdrawing Petty Officer [redacted] previous recommendation for advancement to ATC. Withdrawal is due to an alcohol related offense

*36 - Personal conduct detracted from Navy stature in the community, positive image is key in recruiting. Exhibited poor judgment and self control.
*37 - Led his station to success as the Small Station of the Year for FY 97, earning 104% of goal. Continued to excel into 1ST QTR 1998 achieving 150% of goal.
*39 - Violated command policies regarding proper use of a government vehicle while in a position of special trust (as a Recruiter in Charge and a frocked CPO). Did not set an example worth emulating.
- An exceptional sailor whose overall performance is of the highest caliber. He committed a significant offense which could not be overlooked, but can be overcome. This is one black mark on an otherwise flawless record.
Although no longer best suited for recruiting duty, Petty Officer [redacted] possesses tremendous potential for future service.

44. QUALIFICATIONS/ACHIEVEMENTS - Education, awards, community involvement, etc., during this period.

Promotion Recommendation	NOB	Significant Problems	Progressing	Promotable	Must Promote	Early Promote	47. Retention:
45. INDIVIDUAL		X					Not Recommended <input type="checkbox"/> Recommended <input checked="" type="checkbox"/>
46. SUMMARY		1	0	0	0	0	48. Reporting Senior Address
49. Signature of Senior Rater (Typed Name & Grade/Rate): I have reviewed the evaluation of this member against these performance standards and have provided written explanation to support the marks of 1.0 and 5.0.							50. Signature of Reporting Senior
HEATHERINGTON, R, CDR							98
51. Signature of Reporting Senior: I have seen this report, been apprised of my performance and intend to submit a statement.							52. Typed name, grade, command, UIC, and signature of Regular Reporting Senior on Concurrent Report
Date: 30 Apr 98							Date:
Date: 980430							Date:



4828-98

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
22 OCT 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)
Subj: AT [REDACTED] JSN, 520-90-8134
Ref: (a) BUPERSINST 1610.10, EVAL Manual
Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of the report for the period 16 September 1997 to 30 April 1998.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the report in question to be on file. The member signed the report indicating his desire not to submit a statement. Per reference (a), Annex S, paragraph S-8, the member has two years from the ending date of the report to submit a statement if desired. PERS-311 has not received a statement from the member.

b. The report in question was prepared upon the withdrawal of the member's promotion recommendation as required by reference (a), Annex D, paragraph D-9.d and Annex Q, paragraph Q-2.c, due to the member being awarded Non Judicial Punishment (NJP).

c. The member provides with his petition documentation of his NJP of 8 April 1998 being set-aside on 17 July 1999. Per reference (a), Annex N, paragraph N-13, the comments contained in the report are now inappropriate. As all of the member's rights and privileges have been restored, we feel this report is now inappropriate.

d. The member proves the report to be unjust or in error.

3. We recommend removal of the report in question, replacing it with a SECNAV memo to maintain report continuity.

[REDACTED]

Head, Performance
Evaluation Branch